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CENTRAL DIST. OF CALIF.
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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18

19 UNITED STATES OF
AMERICA,

20 Plaintiffs,

21 v.

22 ADELINE R. BENNETT, MD
23 LIVING TRUST and PITTS
24 GRANDCHILDREN'S
TRUST

25 Defendant

CV06-0238 DDP AJWx
CIVIL ACTION NO. _____
COMPLAINT

26 The United States of America, by authority of the Attorney General of
27 the United States and through the undersigned attorneys, acting at the request
28 of the Administrator of the United States Environmental Protection Agency

1 (hereafter "U.S. EPA" or "EPA"), files this complaint and alleges as follows:

2 NATURE OF THE ACTION

3 1. This is a civil action for injunctive relief and recovery of costs under
4 Sections 106(a) and 107 of the Comprehensive Environmental Response,
5 Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §§ 9606(a) and
6 9607. The United States seeks injunctive relief in order to remedy conditions
7 in connection with the release or threatened release of hazardous substances
8 into the environment at the Waste Disposal, Inc. Superfund Site in Santa Fe
9 Springs, California (hereinafter referred to as the "Site"). The United States
10 also seeks to recover unreimbursed costs incurred and to be incurred for
11 response activities undertaken and to be undertaken at the Site.

12 JURISDICTION AND VENUE

13 2. This Court has jurisdiction over the subject matter of this action,
14 and the Defendants, pursuant to Sections 106(a), 107(a) and 113(b) of
15 CERCLA, 42 U.S.C. §§ 9606(a), 9607(a) and 9613(b), and under 28 U.S.C.
16 §§ 1331 and 1345.

17 3. Venue is proper in this District under Sections 106(a) and 113(b) of
18 CERCLA, 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. § 1391(b) and
19 (c), because the claims arose, and the threatened and actual releases of
20 hazardous substances occurred, within this judicial district.

21 DEFENDANTS

22 4. Each Defendant is a "person," within the meaning of Section
23 101(21) of CERCLA, 42 U.S.C. § 9601(21).

24 5. Each Defendant is a person who owns or operates a part of the Site
25 pursuant to Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

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GENERAL ALLEGATIONS

6. The Site consists of approximately 38 acres located in an industrial area on the east side of Santa Fe Springs in Los Angeles County, California. The Site is bounded by Santa Fe Springs Road on the northwest, a warehouse and a private high school on the northeast, Los Nietos Road on the southwest, and Greenleaf Avenue on the southeast. A residential area lies to the east of the Site.

7. The Site is partially comprised of a buried 42 million gallon concrete lined reservoir used for the disposal of unpermitted petroleum wastes. This reservoir is located on the four land parcels owned by the Defendants. The Site also includes 18 land parcels surrounding the reservoir, a majority of which also contain buried liquid and solid wastes.

8. The forty-two million gallon concrete lined reservoir was constructed in 1924, and initially used for crude petroleum storage. The reservoir was permitted by Los Angeles County from 1949 until 1964 to receive wastes which included rotary drilling muds, steel mill slag, dry mud cake from oil field sumps, and acetylene sludge. Remedial investigations have shown that disposed materials in the reservoir also included, but were not limited to, the following unpermitted wastes: organic wastes, oil refinery wastes, solvents, and petroleum-related chemicals.

9. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on July 22, 1987, 52 Fed. Reg. 27620.

10. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, EPA commenced, on December 22, 1987, a Remedial Investigation and Feasibility Study ("RI/FS") for the Site

1 pursuant to 40 C.F.R. § 300.430. EPA completed a Remedial Investigation
2 ("RI") Report in November, 1990 and completed a Feasibility Study ("FS")
3 in 1993. EPA signed a Record of Decision ("ROD") for the Site in 1993.

4 11. The constituents detected in the samples of waste taken from the
5 reservoir included: volatile organic compounds ("VOCs") such as benzene,
6 vinyl chloride, xylene ("BTEX"), trichloroethene ("TCE") and
7 tetrachloroethene ("PCE"); and semi-volatile organic compounds and metals,
8 such as arsenic, chromium, copper and lead. The same constituents were also
9 detected in the soils both inside the reservoir and in localized areas outside
10 the reservoir, including near some on-site buildings. The same constituents,
11 as well as methane, were also detected in soil vapor monitoring wells
12 installed at the Site during the RI.

13 12. The aforementioned VOCs such as benzene, vinyl chloride,
14 xylene, trichloroethene and tetrachloroethene; and semi-volatile organic
15 compounds and metals, such as arsenic, chromium, copper and lead are
16 "hazardous substances" as defined in Section 101(14) of CERCLA,
17 42 U.S.C. § 9601(14).

18 13. EPA determined that additional FS activities were needed and a
19 Supplemental Feasibility Study ("SFS") Report was completed in May, 2001.

20 14. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, EPA
21 published notice of the completion of the SFS and of the proposed plan for
22 remedial action on May 31, 2001, in a major local newspaper of general
23 circulation. EPA provided an opportunity for written and oral comments
24 from the public on the proposed plan for remedial action. A copy of the
25 transcript of the public meeting is available to the public as part of the
26 administrative record upon which the Regional Administrator based the
27 selection of the response action.

28

1 15. The decision by EPA on the remedial action to be implemented at
2 the Site is embodied in a final Amended Record of Decision, executed on
3 June 21, 2002. The Amended ROD includes a responsiveness summary to
4 the public comments. Notice of the final plan was published in accordance
5 with Section 117(b) of CERCLA.

6 16. The Amended ROD provides for a remedy which includes the
7 following: installation of a cap over the reservoir; installation of capping
8 systems for the areas containing waste materials and soil gas outside the
9 reservoir; installation of a gas collection, extraction and treatment system
10 beneath the cap; installation of a liquids collection system in the reservoir;
11 engineering controls at and/or within existing and new buildings; soil vapor
12 extraction systems and/or gas monitoring systems; groundwater monitoring;
13 and institutional controls.

14 17. The Amended ROD is consistent with CERCLA and the National
15 Contingency Plan, 40 C.F.R. Part 300.

16 18. There were and are "releases" within the meaning of Section
17 101(22) of CERCLA, 42 U.S.C. §9601 (22), as well as the threat of
18 continuing releases of hazardous substances, into the environment at and
19 from the Site.

20 19. The Site is a "facility" within the meaning of Section 101(9) of
21 CERCLA, 42 U.S.C. § 9601.

22 FIRST CLAIM FOR RELIEF

23 20. Paragraphs 1-19 are realleged and incorporated herein by
24 reference.

25 21. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in
26 pertinent part:

27 In addition to any other action taken by a State or local
28

1 government, when the President determines that there may be an
2 imminent and substantial endangerment to the public health or
3 welfare or the environment because of an actual or threatened
4 release of a hazardous substance from a facility, he may require
5 the Attorney General of the United States to secure such relief as
6 may be necessary to abate such danger or threat, and the district
7 court of the United States in the district in which the threat
8 occurs shall have jurisdiction to grant such relief as the public
9 interest and the equities of the case may require.

10 22. By Executive Order 12580 of January 23, 1987, the President's
11 functions under 106(a) of CERCLA, 42 U.S.C. 9606(a), have been delegated
12 to the Administrator of EPA.

13 23. EPA has determined that there is or may be an imminent and
14 substantial endangerment to the public health or welfare or the environment
15 because of actual or threatened releases of hazardous substances from the
16 Site.

17 24. The Defendants each are liable for the injunctive relief to which
18 the United States is entitled at the Site under Section 106(a) of CERCLA,
19 42 U.S.C. § 9606(a).

20 SECOND CLAIM FOR RELIEF

21 25. Paragraphs 1-19 are realleged and incorporated herein by
22 reference.

23 26. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in
24 pertinent part:

25 (1) the owner and operator or a vessel or a facility,

26 ...

27 (4) ... from which there is a release, or a threatened release
28 which causes the incurrence of response costs, of a hazardous
substance, shall be liable for --

(A) all costs of removal or remedial action incurred by
the United States Government . . . not inconsistent with the
national contingency plan. . . .

1 27. The United States has incurred and will continue to incur costs of
2 removal and remedial actions not inconsistent with the National Contingency
3 Plan in responding to the release or threatened release of hazardous
4 substances at and from the Site, within the meaning of Section 101(23), (24),
5 and (25) of CERCLA, 42 U.S.C. § 9601(23), (24), and (25).

6 28. The Defendants are jointly and severally liable to the United States
7 for all response costs, including the costs of removal and remedial actions,
8 incurred in the past or to be incurred in the future by the United States with
9 respect to the Site, plus interest on the response costs, pursuant to Section
10 107(a) of CERCLA, 42 U.S.C. § 9607(a).

11 PRAYER FOR RELIEF

12 WHEREFORE, Plaintiff, the United States of America, respectfully
13 requests that the Court:

14 1. Order each Defendant to abate the threat posed by the release or
15 threatened release of hazardous substances by performing the remedy
16 selected by EPA in the Amended ROD;

17 2. Award the United States a judgment against the Defendants jointly
18 and severally for all costs incurred by the United States in connection with
19 the Site, plus interest;

20 3. Award the United States a declaratory judgment that the Defendants
21 are jointly and severally liable for all future costs incurred by the United
22 States in connection with the Site.

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25 _____
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28 Environment & Natural Resources
 Division